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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,693	11/14/2003	Emmitt Carroll	00-1840	2929

7590
Emmitt Carroll
12029 Royal Road
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El Cajon, CA 22313-1450

12/29/2006

EXAMINER

MAI, TRI M

ART UNIT	PAPER NUMBER
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3781

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/29/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/713,693

Applicant(s)

CARROLL, EMMITT

Examiner

Tri M. Mai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7 and 8 is/are allowed.
- 6) ☒ Claim(s) 1-5 and 9 is/are rejected.
- 7) ☒ Claim(s) 6 and 11 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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1. Claim 1 is objected to” “ate” is misspelled.
2. Claims 1-5, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Stuckey (1262402), or in the alternative, under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Stuckey, and further in view of Miller (2576624). Smith teaches a holding device having a harness with a shoulder straps, cross strap 17 interconnecting the shoulder straps, and an adjustable belt, an umbrella holding bracket 32, one of the pocket 36 can be the cup holder as claimed, and a another one of pocket is the pocket for storing a folded up umbrella as claimed. It is noted that the terms “cup holder” is broad, one of pocket 36 can hold a small paper cup as claimed. Furthermore, the pocket 36 can hold an umbrella as claimed, i.e., it can hold a small compact umbrella. Furthermore, there is no structurally difference between the claimed pocket and the pocket 36.

With respect to the bracket Stuckey teaches that it is known in the art to provide an umbrella holding bracket defining an elongate sleeve with opening at opposite ends and a slot (note portion 27). It would have been obvious to one of ordinary skill in the art to provide to provide an umbrella bracket as taught by Stuckey to provide the desired protection during rain.

To the degree it is argued that Stuckey does not teach the bracket as claimed, Miller teaches that it is known in the art to provide a rod holder with a slot as claimed. It would have been obvious to one of ordinary skill in the art to provide a bracket with a slot as claimed to provide the desired bracket for supporting the umbrella.

Regarding claim 2, it would have been obvious to one of ordinary skill in the art to provide to provide loops at the ends of each shoulder strap to adjust the harness easily.

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Regarding claim 9, the pockets 36 are attached to the backside as claimed, since the orientation is relative. Furthermore, it would have been obvious to one of ordinary skill in the art to provide the pocket securely attached to the backside to provide the desired location for the pockets. It is well known art to rearrange parts of an invention involves only routine skill in the art, see *In Re Japikse*, 86 USPQ 70 (CCPA) 1950.

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Smith rejection as set forth in paragraph 1, and further in view of Cumpston (903682). Cumpston teaches that it is known in the art to provide an umbrella support having a plate 7 with holes at d and a bracket 9 and a sleeve 9g being pivotally fastened to the bracket member. It would have been obvious to one of ordinary skill in the art to provide the umbrella support as taught by Cumpston to provide protection during rain and/or to provide an alternative support.

4. Claims 6, and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claims 7, 8 are allowed.

6. Applicant's arguments filed have been fully considered but they are not persuasive. Applicant assert that the combination does not teach the new limitations with respect to the holding bracket. As set forth above, Stuckey teaches that it is known in the art to provide an umbrella holding bracket defining an elongate sleeve with opening at opposite ends and a slot (note portion 27). It would have been obvious to one of ordinary skill in the art to provide to provide an umbrella bracket as taught by Stuckey to provide the desired protection during rain.

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It is noted that the term "slot" is broad and the opening slot at portion 27 is the claimed slot as claimed.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Tri M. Mai
Primary Examiner
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